

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MIRZA C.,

Plaintiff,

-v-

6:21-CV-740

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

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CANDACE LAWRENCE, ESQ.
Special Ass't U.S. Attorney

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On June 29, 2021, plaintiff Mirza C.¹ (“plaintiff” or “claimant”) filed this action seeking review of the final decision of defendant Commissioner of Social Security (“Commissioner” or “defendant”) denying his application for Disability Insurance Benefits (“DIB”) under the Social Security Act (the “Act”). Dkt. No. 1.

After the Commissioner filed a certified copy of the Administrative Record, Dkt. No. 8, both parties briefed the matter in accordance with General Order 18, which provides that an appeal taken from a final decision denying benefits will be treated as if the parties have filed cross-motions for a judgment on the pleadings, Dkt. Nos. 9, 12.

On August 4, 2022, U.S. Magistrate Judge Daniel J. Stewart advised by Report & Recommendation (“R&R”) that plaintiff’s motion for a judgment on the pleadings be granted, the Commissioner’s motion for a judgment on the pleadings be denied, the Commissioner’s decision be reversed, and that this matter be remanded for further administrative proceedings. Dkt. No. 13.

Neither party has filed objections, and the time period in which to do so

¹ In accordance with a May 1, 2018 memorandum issued by the Judicial Conference’s Committee on Court Administration and Case Management and adopted as local practice in this District, only claimant’s first name and last initial will be mentioned in this opinion.

has expired. *See* Dkt. No. 13. Upon review for clear error, the R&R will be accepted and adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

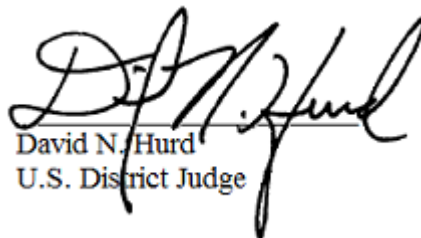
ORDERED that

1. The Report & Recommendation is ACCEPTED;
2. Plaintiff's motion for a judgment on the pleading is GRANTED;
3. The Commissioner's motion for a judgment on the pleadings is DENIED;
4. The Commissioner's decision is REVERSED and VACATED; and
5. This matter is REMANDED for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

The Clerk of the Court is directed to enter a judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: August 22, 2022
Utica, New York.


David N. Hurd
U.S. District Judge